

PATENT

Docket No. P-TN-1698

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Peter CHAIKOWSKY

Serial No.: 09/524,076

Examiner: B. Ashley

Filed: March 13, 2000

Group Art Unit: 3724

For: MITER SAW

Assistant Commissioner for Patents  
Washington, DC 20231

DECLARATION OF PETER CHAIKOWSKY  
UNDER 37 CFR § 1.132

Hon. Commissioner of Patents and Trademarks  
Washington, DC 20231

Dear Sir:

I, Peter Chaikowsky, depose and state that:

1. I am a citizen of the United States of America residing at 700 Benjamin Road, Bel Air, MD 21014.
2. In 1998, I began working for the Black & Decker Corporation (hereinafter "Black & Decker") as a Project Engineer, and my present title is Senior Project Engineer.
3. Black & Decker has been and continues to be recognized as a major supplier of miter saws.
4. During the entire course of my work, I have designed miter saws and other chopping saws.
5. I have reviewed the invention of Claim 1 of the present application ("Claim 1"), as well as DE 197 06 408 ("DE '408"). Based on my experience and my

## PATENT

Docket No. P-TN-1698

review, it is my belief that the arrangement of Claim 1 is novel and advantageous over the arrangement shown in DE '408.

6. DE '408 shows a miter saw comprising a base assembly, a rotatable table rotatably connected to the base assembly, the table having a plane, a saw assembly including a motor and a blade driven by the motor, and a pivot arm pivotally attached to the table and supporting the saw assembly, allowing a user to plunge the blade below the table plane. However, based on Figure 3 of DE '408, the area of the blade below the table plane when plunged is 18.22% of the total blade area. This is different from Claim 1, which calls for the "area of the blade below the table plane when plunged [to be] between about 14.4% and about 17.5% of total blade area."

7. Furthermore, DE '408 discloses a fence disposed on the base assembly that can be removed and disposed in another position on the base assembly to be able to make different cuts. This is different than Claim 1, which calls for "a nonremovable fence attached to the base assembly."

8. Having the area of the blade below the table when the blade is plunged be about 14.4% and about 17.5% of the total blade area is critical because a miter saw with such dimensions can cut certain desired workpieces with a smaller blade that were not previously achievable. For example, with such arrangement, a ten-inch miter saw can cut both a 6.5" by 3/4" workpiece and a dimensional 4" by 4" workpiece without removing the fence. By comparison, DE '408 discloses a ten-inch miter saw that, while it certainly can cut a 6.5" by 3/4" workpiece as shown in Figure 5, it cannot cut a dimensional 4" by 4" workpiece without changing the position of the fence. Such step is not necessary in the ten-inch miter saw according to Claim 1.

PATENT

Docket No. P-TN-1698

9. I have also reviewed the invention of Claim 4 of the present application ("Claim 4"). Based on my experience and my review, it is my belief that the arrangement of Claim 4 is novel and advantageous over the arrangement shown in DE '408.

10. DE '408 shows a miter saw comprising a base assembly, a rotatable table rotatably connected to the base assembly, the table having a table plane, a fence connected to the base assembly and having a fence plane, a saw assembly including a motor and a blade driven by the motor, the blade having a radius and a blade center, and a pivot arm pivotally attached to the table and pivotally supporting the saw assembly about a first axis substantially parallel to the table plane, allowing a user to plunge the blade below the table plane. However, based on Figure 3 of DE '408, the distance between the first axis and the table plane is 0.57 times the radius and the distance between the first axis and the fence plane is 0.927 times the radius. This is different from Claim 4, which calls for the "distance between the first axis and the table plane is about 0.472 times the radius, distance between the first axis and the fence plane is about 1.45 times the radius."

11. Furthermore, DE '408 discloses a fence disposed on the base assembly that can be removed and disposed in another position on the base assembly to be able to make different cuts. This is different than Claim 4, which calls for "a nonremovable fence attached to the base assembly."

12. Having the dimensions called for in Claim 4 is critical because a miter saw with such dimensions can cut certain desired workpiece with a smaller blade that were not previously achievable. For example, with such arrangement, a ten-inch miter saw can cut both a 6.5" by  $\frac{3}{4}$ " workpiece and a dimensional 4" by 4" workpiece without removing the fence. By comparison, DE '408 discloses a ten-inch miter saw that, while it certainly

PATENT

Docket No. P-TN-1698

can cut a 6.5" by  $\frac{3}{4}$ " workpiece as shown in Figure 5, it cannot cut a dimensional 4" by 4" workpiece without changing the position of the fence. Such step is not necessary in the ten-inch miter saw according to Claim 4.

13. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: September 5, 2003

  
Peter Chaikowsky

RECEIVED  
CENTRAL FAX CENTER

SEP 08 2003

OFFICIAL